

CERTIFIED

Person to Contact: [REDACTED]
 Telephone Number: [REDACTED]
 Refer Reply to:
 Internal Revenue Service
 [REDACTED]

Date: FEB 06 1990

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purpose as described in your Articles of Incorporation, Article [REDACTED], is "To sponsor, promote and sanction local, regional, national and international competition in motor vehicle racing." A sample advertisement is attached as Exhibit 1.

Your objective is to provide a uniform set of rules and a governing body for amateur racing tracks. Race tracks that want to be affiliated with your organization must pay an annual franchise fee and a sanction fee to your organization for each race they run. Those race car drivers who wish to participate in INCA sanctioned races must be members of your organization. A membership fee is paid by the drivers in return for which he/she receives a membership card, a monthly newsletter, and a \$5,000 disability or life insurance policy. The drivers earn points in each race depending on their performance. The points are accumulated by your organization for the entire racing year for the member drivers. At the annual banquet in November achievement awards are given based on points accumulated during the season.

FEB 6 1990

Letter sent

| Code | Initiator | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer | Reviewer |
|---------|------------|------------|------------|------------|------------|------------|------------|
| Surname | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| Date | 2/5/90 | 2/5/90 | 2/5/90 | 2/5/90 | 2/5/90 | 2/5/90 | 2/5/90 |

[REDACTED]

Your organization's directors and officers are all employees of [REDACTED] which publishes a racing and antique car paper. You stated the organization is "financially accountable to its members-the race car drivers. All money collected after operating expenses is to be paid back to the race car drivers based on their point accumulations during the year." You state that recipients (of achievement awards) are required to pay for the organization's benefits, services or products. They pay an annual membership fee based on the type of car they will race. You state the organization will limit its benefits to specific classes of individuals-race car drivers who are members of your organization. A sample payoff schedule is attached as Exhibit 2.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inure to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)..."

"(b) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively," for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the private inurement of private shareholders or individuals..."

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that "an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 71-395, 1971-2 C.B. 228, provides that a cooperative art gallery formed and operated by a group of artists for the purpose of exhibiting and selling their works does not qualify for exemption under Section 501(c)(3) of the Code. The rationale used is that such a gallery is a vehicle for advancing the careers and promoting the sales of the works of the member artists. The gallery thus serves the private purpose of its members, which is not an exempt purpose.

Your organization limits its benefits to members. This serves private rather than public purposes. The awarding of cash prizes to members of your organization is a particular service to members and does not benefit the general public. You are also not operated for an exempt purpose because the primary purpose of your organization is to promote the financial well-being of the commercial and competitive motorsport industry.

[REDACTED]

We have concluded, based upon the facts and evidence on file, that you are not operated exclusively as a charitable or educational organization described in Section 501(c)(3) of the Code because a substantial amount of your activities and operations are directed towards the improvement and advancement of the professional interest of your members.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and argument (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Agreement and regarding the filing of a power of attorney and a statement of consent to practice must be met. We have enclosed Circular 237, Exempt Organization Appeal Procedures for more information, which explains in detail your rights and

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 742P(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6615.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

[REDACTED]
District Director

Enclosures:

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